

REMARKS/ARGUMENTS

Claims 1 – 9 and 11 – 29 are pending in the application. Claims 1 and 16 are amended herein, and claim 10 has been canceled. New claim 29 has been added. No new matter has been added. Support for the amendments to claims 1 and 16 and for new claim 29 is found in the claims as originally presented and in the specification as filed.

A check for \$200.00 for the amendment of claim 16 to independent form and for the addition of new independent claim 29 is enclosed. Applicant is a small entity, and small entity status has been claimed.

Rejections under 35 U.S.C. § 102(b)

Claims 1 – 15 and 22 – 28 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. patent 3,978,345 (Bailey). Claim 1 as amended requires at least one member that rotates around a point defined as being within a perimeter defined by said member. Although Bailey does appear to include members 24 for generating lift, those members rotate around points outside their perimeters, *i.e.*, around an axis orthogonal to the plane of rotation (see Fig. 2 of Bailey). Moreover, Bailey does not disclose stop members which prevent rotation of the members past a pre-determined point. Thus, claim 1 as amended is novel over Bailey.

It is submitted that a person of ordinary skill in the art would not consider providing a stop member in the apparatus disclosed in Bailey, because to do so would prevent Bailey from functioning as a power generation mechanism. In Bailey, the members must be able to rotate freely about the axis. One of ordinary skill in the art would by definition not be motivated to modify the apparatus disclosed in Bailey in such a way as to destroy its ability to carry out its intended purpose. In contrast, the present invention is an apparatus for controlling underwater equipment – it does not in itself generate recoverable power (although it may be attached to something which does). Not only is the claimed invention novel over Bailey, it would not have been obvious over Bailey.

For these reasons, applicants submit that that claims, as amended, are novel over Bailey. Withdrawal of the rejection and allowance of claims 1 – 15 and 22 – 28 are requested.

Allowable Subject Matter

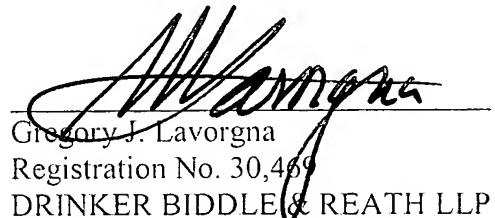
Claims 16 – 21 were objected to as dependent upon a rejected base claim, but were indicated as being allowable if rewritten in independent form including all the elements of the base claim and any intervening claims. Claim 16 has been rewritten in independent form as suggested by the examiner. Accordingly, applicants submit that claims 16 – 21, as amended, are immediately allowable.

CONCLUSION

It is respectfully submitted that all pending claims, as amended herein, are in condition for allowance, and Applicant respectfully requests that allowance be granted at the earliest date possible. Should the Examiner have any questions or comments regarding Applicant's amendments or remarks, the Examiner is asked to contact Applicant's undersigned representative at (215) 988.2700.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0573.

Respectfully submitted,



Gregory J. Lavorgna
Registration No. 30,469
DRINKER BIDDLE & REATH LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996
Tel: (215) 988.3309
Fax: (215) 988.2757
Attorney for Applicants